



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.18929 of 2016

and

W.M.P.Nos.16515 of 2016 & 11737 of 2019

The Management,
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Illam, Anna Salai,
Chennai - 600 002.

...Petitioner

-Vs-

1.K.Ganesan

2.The Special Deputy
Commissioner of Labour,
D.M.S.Office, IV-Floor,
Teynampet,
Chennai - 600 006.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records pertaining to the order passed in A.P.No.146 of 2013 dated 16.11.2015 on the file of the second respondent herein and quash the same.

For Petitioner : Mr.M.Chidambaram

For R1 : No Appearance

For R2 : Mr.S.Arumugam
Government Advocate



ORDER

Under Section 33(2)(b) of the Industrial Disputes Act, 1947, the employer is mandated to file an Approval Petition at the time of terminating an employee or atleast immediately on such termination. In the instant case, the petitioner/corporation had terminated the employee on 27.12.2007 and after more than five years, the petitioner had filed an application on 23.02.2013. The law with regard to such belated filing of an Approval Petition under Section 33(2)(b) has been well settled in various decisions including the decision in Lalla Ram vs. D.C.M. Chemical Works Ltd., reported in (1978) 3 SCC 1, as well as the decision in John D'Souza vs. Karnataka State Road Transport Corporation reported in (2019) 18 SCC 47.

2. When the law mandates an Approval Petition to be filed together with the order or immediately after passing the order, the inordinate delay of more than five years, particularly when no reason has been assigned for the delay, cannot be condoned at all.

3. The learned Standing Counsel for the petitioner/corporation made a faint attempt to address the merits of the case, by stating that the petitioner was subjected to various disciplinary actions and was punished on fifteen previous occasions.

4. This Court is unable to appreciate as to how the lapses committed by the management in the instant case could be overlooked, merely on making a reference to the service antecedents of the workmen.

5. In the result, I do not find any merits in the present writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar



ata/hvk

To

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The Special Deputy Commissioner of Labour,
D.M.S.Office, IV-Floor,
Teynampet,
Chennai - 600 006.

+1cc to Mr.M.Chidambaram, Advocate, S.R.No.53811

+1cc to Mr.K.Malaikannu, Advocate, S.R.No.53876

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SSV(CO)
SB(02/11/2021)